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9 IN THE UNITED STATES BANKRUPTCY COURT  
10 FOR THE DISTRICT OF OREGON

11 In re  
12 ERIC L. SILVA,  
13 Debtor.  
14

Case No. 19-34037-pcm12

OBJECTION TO DEBTOR'S MOTION FOR  
FINAL ORDER AUTHORIZING USE OF  
CASH COLLATERAL OF DEBTOR-IN-  
POSSESSION AND GRANTING  
ADEQUATE PROTECTION

15  
16 Boverman & Associates, LLC (the "Receiver:"), the receiver appointed by the Tillamook  
17 County Circuit Court in case number 19CV38941 for Eric Silva dba Sunset Canyon Jerseys (the  
18 "Debtor") hereby files this objection to the Debtor's motion for use of cash collateral because it  
19 violates 11 U.S.C. § 543(c).

20 The Receiver was appointed on September 18, 2019 and had possession as a custodian of the  
21 Debtor's property until October 31, 2019 when Debtor filed this chapter 12 bankruptcy proceeding.  
22 The Debtor was obviously well aware of the Receiver's appointment and its status as a creditor under  
23 11 U.S.C. § 543, but chose not to serve the Receiver with any pleadings in this proceeding, including  
24 but not limited to his motion for use of cash collateral or the notice of final hearing. As a result, the  
25 motion has not been properly noticed under FRBP 7004 because the Receiver is an affected  
26 lienholder under ORS 37.370(1)(c), having been appointed at the behest of Key Bank, N.A.

1 The Receiver did not yet file a motion under 11 U.S.C. § 543(c), because it was informed by  
2 secured creditor, Key Bank N.A ("Key Bank") that Key Bank would pay the Receiver's and its  
3 professionals fees (since those fees have priority over Key Bank's liens). However, on November 25,  
4 2019, the Receiver's counsel was informed that Key Bank will not be paying those fees and costs.  
5 Thus, the Receiver will file a motion under 11 U.S.C. § 543(c) for payment from the estate for the  
6 custodian fees and expenses. Until that motion is filed and a hearing is held, the Debtors' motion for  
7 use of cash collateral should be denied. At the commencement of this proceeding, the Receiver  
8 turned over property to the Debtor. The Receiver will be filing its accounting under 11 U.S.C. §  
9 543(b) in short order.

10 DATED this 25th day of November, 2019.

11 FOSTER GARVEY PC

12  
13 By /s/ Tara J. Schleicher

14 Tara J. Schleicher, OSB #954021

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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing OBJECTION TO DEBTOR'S MOTION FOR FINAL ORDER AUTHORIZING USE OF CASH COLLATERAL OF DEBTOR-IN-POSSESSION AND GRANTING ADEQUATE PROTECTION:

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by the following indicated method or methods on the date set forth below:



**CM/ECF system transmission.**



**E-mail.** As required by Local Rule 5.2, any interrogatories, requests for production, or requests for admission were e-mailed in Word or WordPerfect format, not in PDF, unless otherwise agreed to by the parties.



**First-class mail, postage prepaid.**

DATED this 25th day of November, 2019.

/s/ Tara J. Schleicher  
Tara J. Schleicher